

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 2:12-cr-00319-JCM-GWF
vs.)
MARIA LARKIN,)
Defendant.)
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This matter is before the Court on the Government's Motion to Quash (ECF No. 285), filed on June 1, 2017. Defendant filed her Response (ECF No. 289) on June 5, 2017.

IRS Supervisory Special Agent Joshua Bottjer and Special Agent Tiffany Lowe have been subpoenaed by Defendant to appear and testify in her case-in-chief pursuant to Federal Rule of Criminal Procedure 17(b). The Government requests that the Court quash the subpoenas as unreasonable and oppressive under Federal Rule of Criminal Procedure 17(c)(2). The Government argues that the testimony offered by either Special Agent would be cumulative, misleading, and cause undue delay. Defendant argues that the Government incorrectly cites to the standard to quash a subpoena duces tecum for the production of documents. She further argues that she has a constitutional right to call witnesses with material and favorable testimony to her defense.

Rule 17(b) describes the procedure for defendants who are unable to pay the requisite witness fees and permits an ex parte application by a defendant requesting that the court issue a subpoena. The court will authorize issuance of a subpoena to a defendant who is unable to pay “if the defendant shows an inability to pay the witness's fees and the necessity of the witness's presence for an adequate defense.” Fed.R.Crim.P. 17(b). Rule 17(c) establishes the process by which federal courts can issue subpoenas duces tecum for the production of evidence before trial. The

1 Government has not sufficiently demonstrated that Defendant's subpoenas pursuant to Rule 17(b)
2 warrant being quashed. The Court, therefore, denies the Government's motion without prejudice to
3 the Government objecting to questions as cumulative, misleading, confusing, causing undue delay,
4 or on any other basis pursuant to the Federal Rules of Criminal Procedure and Federal Rules of
5 Evidence. Accordingly,

6 **IT IS HEREBY ORDERED** that the Government's Motion to Quash (ECF No. 285) is
7 **denied, without prejudice.**

8 DATED this 8th day of June, 2017.

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11 GEORGE FOLEY, JR.
United States Magistrate Judge